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09/866,191	05/25/2001	Nancy J. Rabenold	16628-14	4604

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EXAMINER

HAYES, JOHN W

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)
	09/866,191	RABENOLD ET AL.
	Examiner John W Hayes	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 June 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 6-68 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 6-68 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 May 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.  
4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Specification***

1. The disclosure is objected to because of the following informalities:
  - a. The reference to Figure 6D on page 31, line appears to be incorrect and seems like it should be 9D.
  - b. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code on page 51, line 1. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Appropriate correction is required.

### ***Drawings***

2. The drawings filed on 25 May 2001 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 6, 12, 14-16, 17/12, 17/14-16, 19-21, 22/12, 22/14-16, 23/12, 23/14-16, 24-26, 27/12, 27/14-16, 28/12, 28/14-16, 29/12, 29/14-16, 30/14-16, 31-32, 33/12, 33/14-16, 34/12, 34/14-16, 36/12, 36/14-

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16, 37/12, 37/14-16, 39/12, 39/14-16, 40/12, 40/14-16, 41/12, 41/14-16, 46/12, 46/14-16, 48/12, 48/14-16, 50/12, 50/14-16, 52-57/12 and 52-57/14-16, 59/12, 59/14-16, 60-63 and 65-68 is rejected under 35 U.S.C. 102(e) as being anticipated by Friedland et al, U.S. Patent No. 6,449,601 B1.

As per Claims 6, 12, 14-16, 19-21 and 24-26, 27/12, 27/14-16 and 60-63, Friedland et al disclose a supplement for a traditional-style, live auction that instantaneously integrates a remote auction audience with an onsite auction audience while leaving an auctioneer in complete control of the auction event (Col. 2 line 65-Col. 3 line 8; Col. 7, lines 62-65; Col. 9, lines 50-57), comprising:

- clerk system means for instantaneously requesting and accepting auction bids received from onsite auction bidders and from remote auction bidders for items being auctioned at a live auction site (Col. 3, lines 23-37; Col. 6, lines 45-50; Col. 13, lines 39-45; Col. 17, lines 14-27; Col. 20, lines 1-17);

- bid system means for broadcasting instantaneously to remote auction bidders auction bid information for items being auctioned at the live auction site, for receiving instantaneously auction bids from remote auction bidders for items being auctioned at the live auction site, and for broadcasting instantaneously to remote auction bidders the onsite and remote auction bids that are accepted and rejected by the clerk system means as directed by an auctioneer (Col. 3, lines 23-38; Col. 7, lines 34-43; Col. 8, lines 12-17 and 39-50; Col. 13, lines 29-46; Col. 14, lines 44-58; Col. 16, lines 25-30; Col. 20, lines 10-17); and

- audio/video system means for transmitting instantaneously live audio and video data from a live auction site to one or more remote auction bidders having a bidding device means for receiving the data and for transmitting instantaneously remote auction bids for items being auctioned at a live auction site and enabling the remote bidders to hear the live auctioneer's auction chant and view real-time video (Col. 8, lines 15-27).

As per Claims 17/12, 17/14-16, Friedland et al further disclose step of providing catalog system means for cataloging pre-auction sales data on the items to be auctioned at the live auction site and

providing means for broadcasting to the remote auction bidders the pre-auction sales data (Col. 12 line 42-Col. 13 line 14).

As per **Claims 22/12 and 22/14-16**, Friedland et al further disclose providing bid system means includes providing bid engine algorithm means for requesting and controlling the auction bids received from auction bidders for the items being auctioned at the live auction site (Col. 8, lines 27-50; Col. 9, lines 50-58; Col. 13, lines 29-46; Col. 14, lines 44-58; Col. 17, lines 14-25).

As per **Claims 23/12, 23/14-16 and 66**, Friedland et al further disclose providing a live auctioneer at the live auction site with full discretionary control over the actions of the clerk system means (Col. 2, lines 12-36; Col. 2 line 65-Col. 3 line 3; Col. 7, lines 60-65; Col. 9, lines 50-59; Col. 13, lines 43-53; Col. 21, lines 40-45).

As per **Claims 28/12, 28/14-16, 29/12, 29/14-16 and 67-68**, Friedland et al further disclose wherein the remote auction bidders are able to instantaneously follow an accepted bid sequence established by the live auctioneer (Col. 1, lines 64-67; Col. 7, lines 39-60).

As per **Claims 30/14-16, 31-32, 33/12, 33/14-16 and 65**, Friedland et al further disclose wherein the remote auction bidder is able to transmit instantaneously a remote auction bid by activating a single button within the bidding device means and wherein the amount of the bid is visually displayed (Figures 7-9).

As per **Claims 34/12 and 34/14-16**, Friedland et al further disclose wherein the remote auction bidder is able to instantaneously monitor auction bids received in a text format (Col. 8, lines 35-55; Col. 9, lines 1-8).

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As per Claims 36/12, 36/14-16, 37/12, 37/14-16, 39/12, 39/14-16, 40/12 and 40/14-16, Friedland et al further disclose wherein the bid system means instantaneously notifies remote auction bidder(s) of the acceptance or rejection of a remote auction bidder's most recent remote auction bid or a higher accepted bid of another bidder (Col. 8, lines 39-50).

As per Claim 41/12 and 41/14-16, Friedland et al further disclose wherein the bid system means enables the remote auction bidder to instantaneously receive text messages from the live auction site (Figure 10).

As per Claims 46/12 and 46/14-16, Friedland et al further disclose wherein text messages instantaneously received at the live auction site includes text messages sent from a remote bidder (Figure 5).

As per Claims 48/12, 48/14-16, 50/12 and 50/14-16, Friedland et al further disclose wherein the step of providing clerk system means includes providing at least one bid increment button that when selected instantaneously signals remote auction bidders that the auctioneer has accepted a bid at a previously auctioneer-requested bid amount and instantaneously identifies a new auctioneer-requested bid amount (Col. 13, lines 35-55; Col. 14, lines 14-25).

As per Claims 52/12, 52/14-16, 53/12, 53/14-16, 54/12, 54/14-16, 55/12 and 55/14-16, Friedland et al further disclose wherein the clerk system means includes instantaneously modifying the high bidder status from an onsite bidder to a specific remote bidder for a specific previously accepted or proposed bid (Figure 8-9).

As per Claims 56/12 and 56/14-16, Friedland et al further disclose wherein the clerk system means includes selecting the items being auctioned by either selecting the next sequential item or selecting a specific item number in or out of sequence (Col. 1, lines 64-67; Col. 7, lines 39-60).

As per Claims 57/12 and 57/14-16, Friedland et al further disclose wherein the clerk system means includes identifying a specific item as sold or unsold following either a successful or unsuccessful bid sequence (Figure 9).

As per Claims 59/12 and 59/14-16, Friedland et al further disclose wherein when the clerk systems means identifies an item being auctioned as sold and the bidder submitting the high bid amount is an onsite bidder, the bid system means enables the clerk system means to instantaneously accept an onsite bidder's identification, name or number (Figure 9).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 38/12 and 38/14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al, U.S. Patent No. 6,449,601 B1.

As per Claims 38/12 and 38/14-16, Friedland et al fail to specifically disclose wherein the bid system means instantaneously notifies remote auction bidder(s) of the rejection of the remote auction bidder's most recent remote auction bid due to an insufficient credit limit available to the remote auction bidder. However, examiner takes official notice that it is well known in the online auction arts to reject a bid when the bidder's credit limit is insufficient to cover the amount of the bid. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Friedland et al and include the ability to reject a bid based upon an insufficient credit limit in order to prevent declaring a winner when the winner may not be able to pay for the item.

7. Claims 7-10, 13, 17/13, 22/13, 23/13, 27/13, 28/13, 29/13, 33/13, 34/13, 36/13, 37/13, 38/13, 39/13, 40/13, 41/13, 42-45, 46/13, 47, 48/13, 49, 50/13, 51, 52/12, 53/13, 54/13, 55/13, 56/13, 57/13, 58, 59/13 64 and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al, U.S. Patent No. 6,449,601 B1 in view of Dinwoodie, U.S. Patent No. 6,415,269 B1.

As per Claims 7-10, 13, 27/13, 42-45, 47, 58 and 64, Friedland et al disclose supplement for a traditional-style, live auction that instantaneously integrates a remote auction audience with an onsite auction audience while leaving an auctioneer in complete control of the auction event (Col. 2 line 65-Col. 3 line 8; Col. 7, lines 62-65; Col. 9, lines 50-57), comprising:

- clerk system means for instantaneously requesting and/or accepting auction bids received from onsite auction bidders and from remote auction bidders for items being auctioned at a live auction site (Col. 3, lines 23-37; Col. 6, lines 45-50; Col. 13, lines 39-45; Col. 17, lines 14-27; Col. 20, lines 1-17);

- bid system means for broadcasting instantaneously to remote auction bidders and a user interface display on an auction console the auction bid information for each item being auctioned at the live auction site, for instantaneously receiving auction bids from remote auction bidders for items being auctioned at the live auction site, for transmitting instantaneously to the user interface display each remote auction bid received for items being auctioned at the live auction, and for broadcasting instantaneously to all remote auction bidders and to the clerk and user interface display of the auction console the onsite and remote auction bids that are accepted and rejected by the clerk system means as directed by an auctioneer (Figure 9; Col. 3, lines 23-38; Col. 7, lines 34-43; Col. 8, lines 12-17 and 39-50; Col. 13, lines 29-46; Col. 14, lines 44-58; Col. 16, lines 25-30; Col. 20, lines 10-17)

- audio/video system means for transmitting instantaneously live audio and video data from a live auction site to one or more remote auction bidders having a bidding device means for receiving the data and for transmitting instantaneously remote auction bids for items being auctioned at a live auction site (Col. 8, lines 15-27).

Friedland et al discloses displaying the bid information on a user interface display of a auction console, however, Friedland et al fail to explicitly disclose a marquee system means for instantaneously displaying auction bid information, including proposed and accepted auction bids, for each item being auctioned at the live auction site. Dinwoodie discloses an interactive remote auction bidding system with a live auctioneer (Col. 3, lines 16-25) and further discloses a display means at the actual auction site for displaying bid information including proposed and accepted bids for each item being auctioned and further teaches broadcasting this display to the auction participants (Col. 35-48). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system disclosed by Friedland et al and adopt the teachings of Dinwoodie by including a display device for displaying bid information, including proposed and accepted auction bids so that the live auction participants as well as the live auctioneer as disclosed by Friedland et al could follow the local and remote events of the auction by monitoring a display of bidding information. It would also have been obvious to one having ordinary skill in the art at the time of applicant's invention to include the ability to display any information related to the events of the auction so that the live auction participants as well as the live auctioneer could follow the local and remote events as they occur

As per Claims 17/13, Friedland et al further disclose step of providing catalog system means for cataloging pre-auction sales data on the items to be auctioned at the live auction site and providing means for broadcasting to the remote auction bidders the pre-auction sales data (Col. 12 line 42-Col. 13 line 14).

As per Claims 22/13, Friedland et al further disclose providing bid system means includes providing bid engine algorithm means for requesting and controlling the auction bids received from auction bidders for the items being auctioned at the live auction site (Col. 8, lines 27-50; Col. 9, lines 50-58; Col. 13, lines 29-46; Col. 14, lines 44-58; Col. 17, lines 14-25).

As per Claims 23/13 and 66, Friedland et al further disclose providing a live auctioneer at the live auction site with full discretionary control over the actions of the clerk system means (Col. 2, lines 12-36; Col. 2 line 65-Col. 3 line 3; Col. 7, lines 60-65; Col. 9, lines 50-59; Col. 13, lines 43-53; Col. 21, lines 40-45).

As per Claims 28/13, 29/13 and 67-68, Friedland et al further disclose wherein the remote auction

bidders are able to instantaneously follow an accepted bid sequence established by the live auctioneer (Col. 1, lines 64-67; Col. 7, lines 39-60).

As per Claims 33/13, Friedland et al further disclose wherein the remote auction bidder is able to transmit instantaneously a remote auction bid by activating a single button within the bidding device means (Figures 7-9).

As per Claims 34/13, Friedland et al further disclose wherein the remote auction bidder is able to instantaneously monitor auction bids received in a text format (Col. 8, lines 35-55; Col. 9, lines 1-8).

As per Claims 36/13, 37/13, 39/13 and 40/13, Friedland et al further disclose wherein the bid system

means instantaneously notifies remote auction bidder(s) of the acceptance or rejection of a remote auction bidder's most recent remote auction bid (Col. 8, lines 39-50).

As per Claims 38/13, Friedland et al and Dinwoodie fail to specifically disclose wherein the bid system means instantaneously notifies remote auction bidder(s) of the rejection of the remote auction bidder's most recent remote auction bid due to an insufficient credit limit available to the remote auction bidder. However, examiner takes official notice that it is well known in the online auction arts to reject a

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bid when the bidder's credit limit is insufficient to cover the amount of the bid. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Friedland et al and include the ability to reject a bid based upon an insufficient credit limit in order to prevent declaring a winner when the winner may not be able to pay for the item.

As per Claim 41/13, Friedland et al further disclose wherein the bid system means enables the remote auction bidder to instantaneously receive text messages from the live auction site (Figure 10).

As per Claims 46/13, Friedland et al further disclose wherein text messages instantaneously received at the live auction site includes text messages sent from a remote bidder (Figure 5).

As per Claims 48/13, 49, 50/13 and 51, Friedland et al further disclose wherein the step of providing clerk system means includes providing at least one bid increment button that when selected instantaneously signals remote auction bidders that the auctioneer has accepted a bid at a previously auctioneer-requested bid amount and instantaneously identifies a new auctioneer-requested bid amount (Col. 13, lines 35-55; Col. 14, lines 14-25).

As per Claims 52/13, 53/13, 54/13 and 55/13, Friedland et al further disclose wherein the clerk system means includes instantaneously modifying the high bidder status from an onsite bidder to a specific remote bidder for a specific previously accepted or proposed bid (Figure 8-9).

As per Claims 56/13, Friedland et al further disclose wherein the clerk system means includes selecting the items being auctioned by either selecting the next sequential item or selecting a specific item number in or out of sequence (Col. 1, lines 64-67; Col. 7, lines 39-60).

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As per Claims 57/13, Friedland et al further disclose wherein the clerk system means includes identifying a specific item as sold or unsold following either a successful or unsuccessful bid sequence (Figure 9).

As per Claims 59/13, Friedland et al further disclose wherein when the clerk systems means identifies an item being auctioned as sold and the bidder submitting the high bid amount is an onsite bidder, the bid system means enables the clerk system means to instantaneously accept an onsite bidder's identification, name or number (Figure 9).

8. Claim 11/6, 18/12, 18/14-16 and 35/14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al, U.S. Patent No. 6,449,601 B1 in view of Berent et al, U.S. Patent No. 6,006,201.

As per Claims 11/6, 18/12 and 18/14-16, Friedland et al fails to disclose a data mining means for processing and analyzing the onsite and remote auction bid history for each item auctioned at the live auction site. Berent et al disclose an electronic on-line motor vehicle auction and information system and further teach a data mining means for processing and analyzing the bid history for each item auctioned at the live auction site (Col. 2, lines 25-30 and Col. 13, lines 4-9). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Friedland et al and include a data mining means for processing and analyzing bid history data so that a bidder can prepare for future auctions.

As per Claims 35/14-16, Friedland et al fail to specifically disclose wherein the bidding device means includes a button that may be selected by a remote auction bidder to provide an immediate summary of all of the remote auction bidder's auction purchases. Berent et al disclose this feature (Col. 10, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Friedland et al and include the ability to recall a summary of the remote

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bidder's auction purchases in order to track the purchases and the total amount that the bidder is committed to.

9. Claims 11/7-10 and 18/13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al, U.S. Patent No. 6,449,601 B1 and Dinwoodie, U.S. Patent No. 6,415,269 B1, and further in view of Berent et al, U.S. Patent No. 6,006,201.

As per Claim 11/7-10 and 18/13, Friedland et al and Dinwoodie fail to disclose a data mining means for processing and analyzing the onsite and remote auction bid history for each item auctioned at the live auction site. Berent et al disclose an electronic on-line motor vehicle auction and information system and further teach a data mining means for processing and analyzing the bid history for each item auctioned at the live auction site (Col. 2, lines 25-30 and Col. 13, lines 4-9). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Friedland et al and Dinwoodie and include a data mining means for processing and analyzing bid history data so that a bidder can prepare for future auctions.

### ***Conclusion***

10. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Handler [WO 00/34899] discloses an integrated auction that includes a live, in-person auction component and an online bidding environment and teaches many aspects of applicant's claimed invention. It is also noted that this publication claims U.S Priority back to 08 December 1998
- Rackson et al disclose a method for multiple auction coordination

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

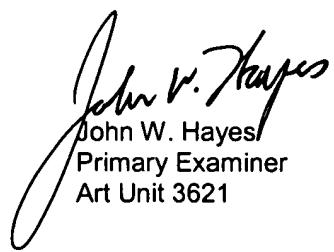
***Commissioner of Patents and Trademarks  
Washington D.C. 20231***

or faxed to:

**(703)305-7687** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703) 746-5531** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,  
VA, 7<sup>th</sup> floor receptionist.



John W. Hayes  
Primary Examiner  
Art Unit 3621

July 30, 2003